

LINDENMEIER 18
09/783,000

REMARKS/ARGUMENTS

Reconsideration of this patent application is respectfully requested in view of the foregoing amendments and the following remarks.

In summary, claim 22 has been canceled while new claim 28 has been added. New claim 28 includes the elements of claims 21 and claim 22 which the Examiner has stated is potentially allowable.

The Examiner has rejected claims 21, and 23-25 under 35 U.S.C. 103(a) as being unpatentable over *Gurak* in view of *Gottfried*.

The applicant respectfully traverses this rejection.

In particular, the applicant believes that the *Gurak* reference teaches away from combining with the *Gottfried* reference. In particular column 1 lines 30-40 of *Gurak* disclose the following:

LINDENMEIER 18
09/783,000

"One technique for receiving FM signals in a diversity receiver has been termed the "signal selection" technique. With this type of receiving technique, the stronger of the two signals is accepted and the weaker of the two signals is rejected. It was found that this type of receiving technique did not provide as much of an advantage as compared to predetection combining techniques, since both of the channels of a dual diversity system, or all of the channels of a multiple diversity receiving system, contribute to the combined IF (intermediate frequency) signal output resulting in an advantage in long distance scatter type communications systems."

From the above passage, it is clear that one reading the Gurak patent would not be led to combine the disclosures of Gurak and Gottfried together to arrive at the present invention claimed in claim 21.

For an Examiner to make an obvious type rejection, there must be some suggestion or motivation to combine the references. See MPEP 2143. Thus, these references must not teach away from each other.

The applicant further notes that "Before the PTO may combine the disclosures of two or more prior art references in order to establish prima facie obviousness, there must be some suggestion for doing so..." In Re Jones, 958 F.2d 347, 21 U.S.P.Q. 2d 1941

LINDENMEIER 18
09/783,000

(Fed Cir. 1992), See Also In Re Fine, 837 F.2d 1596, 1598-99 (Fed Cir. 1988). See also MPEP 2143.01 and In re Kotzab, 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000). In Kotzab the court found that while the control of multiple valves by a single sensor rather than by multiple sensors was a "technologically simple concept," there was no finding "as to the specific understanding or principle within the knowledge of the skilled artisan" that would have provided the motivation to use a single sensor as the system to control more than one valve. 217 F.3d at 1371, 55 USPQ 2d at 1318.

With the references to *Gurak* and *Gottfried*, there is not only no suggestion for combination, the applicant believes that the above cited passage in *Gurak* actually teaches away from the solution or disclosure of *Gottfried* which describes diversity systems. Therefore, the applicant believes that claim 21 is patentable. In addition, the applicant believes that claims 23-25 which depend from claim 21 are patentable as well.

In view of the foregoing, it is respectfully requested that the claims be allowed and that this case be passed to issue.

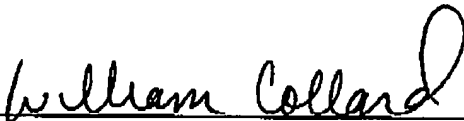
LINDENMEIER 18
09/783,000

Applicant respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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Enclosure(s): Extension of Time 2 Months

CERTIFICATE OF FACSIMILE TRANSMISSION

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I hereby certify that this correspondence is being sent by facsimile transmission to the U.S.P.T.O. to Patent Examiner B. Jackson at Group No.2685, to 1-703-872-9306 on September 21, 2004.


William Collard